METROPOLITAN AREA PLANNING COMMISSION

MINUTES

June 6, 2002

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, June 6, 2002, at 1:30 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Bud Hentzen, Vice-Chair; Ron Marnell; Don Anderson; Bill Johnson; Harold Warner; Frank Garofalo; Ray Warren; Kerry Coulter; James Barfield; David Wells; Elizabeth Bishop and Dorman Blake. The following members were absent: Jerry Michaelis, Chair, and John McKay, Jr. Staff members present were: Marvin S. Krout, Secretary; Dale Miller, Assistant Secretary; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Scott Knebel, Senior Planner; Jess McNeely Associate Planner and Rose Simmering, Recording Secretary.

1. Approval of the MAPC minutes for May 9, 2002 and May 23, 2002.

MOTION: That the minutes for May 9, 2002 and May 23, 2002 be approved.

Commissioner Warren noted he had corrections to give to the Recording Secretary and expressed concerns that some of these minutes don't make sense.

WARNER moved, MARNELL seconded the motion, and it carried (8-0).

2. <u>Consideration of Subdivision Committee Recommendations</u>

- 2/1. <u>SUB2002-43</u> Final Portion of an Overall Preliminary Plat HIGHLAND SPRINGS THIRD ADDITION, located on the south side of Central and the west side of 135th Street West.
- A. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- C. <u>City Engineering</u> needs to comment on the status of the applicant's drainage plan. <u>The drainage plan is approved. Additional calculations are requested.</u>
- D. The applicant shall guarantee the paving of the proposed interior streets. Highland Springs shall be paved to a collector street status, and sidewalks shall be guaranteed along both sides of the street. Sidewalks shall be guaranteed on one side of Rolling Hills.
- E. As required with the preliminary approval, the applicant shall construct a left turn bay at Highland Springs. <u>The guarantee was previously submitted. A revised petition may be requested by City Engineering.</u>
- F. The applicant shall submit a copy of the instrument which establishes the pipeline easements on the property, which verifies that the easements and setbacks shown are sufficient and that utilities may be located adjacent to and within the easements.
- G. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- H. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- I. <u>City Fire Department</u> needs to comment on the acceptability of the street names. <u>Revised street names are</u> required by GIS.
- J. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- K. The applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- L. Complete access control shall be dedicated along the plat's frontage to Central.

- M. The wall easement shall be referenced in the plattor's text.
- N. The plattor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- O. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- P. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- Q. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- R. The applicant is advised that various State and Federal requirements [specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147] for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- S. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- T. Perimeter closure computations shall be submitted with the final plat tracing.
- U. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- V. The representatives from the <u>utility companies</u> should be prepared to comment on the need for any additional utility easements to be platted on this property. <u>Westar Energy has requested additional easements.</u>
- W. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in Release 13 version of AutoCAD. This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MARNELL moved, GAROFALO seconded the motion, and it carried (8-0).

2/2. SUB2002-42 — One-Step Final Plat of ST. PETER THE APOSTLE CATHOLIC CHURCH SECOND ADDITION, located west of Maize Road and north of the K-42 Highway.

- A. <u>City Water and Sewer Department</u> requests a petition for future extension of sanitary sewer and City water
- B. Since neither sanitary sewer nor municipal water is available to serve this property, the applicant shall contact County Code Enforcement to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage and water wells. A memorandum shall be obtained specifying approval.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. <u>County Engineering</u> needs to comment on the status of the applicant's drainage plan. <u>The drainage plan is approved.</u>
- E. A cross-lot access agreement shall be provided with the Church property to the south. <u>County Fire Department has advised that an access easement between St. Peters The Apostle Catholic Church Addition and the proposed second addition has been established based upon a site plan that has been provided to and approved by the County Fire Department. The access easement shall be provided to MAPD.</u>
- F. Access drives to structures in excess of 150 feet from the edge of the road are to be installed by the owner/builder and accepted by the fire department prior to the issuance of the building permit. Said drives are to be installed according to fire department specifications (20 feet wide with applicable turnaround with an all-weather surface able to withstand the weight of heavy apparatus in inclement weather).
- G. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.

- H. On the final plat, the MAPC signature block needs to reference "J.D. Michaelis, Chair".
- I. On the final plat tracing, the City Council signature block should be revised to replace the Mayor's signature line with the City Manager, preceded above by "At the direction of the City Council".
- J. The plattor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights -of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- K. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- L. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- M. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- N. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- O. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- P. Perimeter closure computations shall be submitted with the final plat tracing.
- Q. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- R. The representatives from the <u>utility companies</u> should be prepared to comment on the need for any additional utility easements to be platted on this property.
- S. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MARNELL moved, GAROFALO seconded the motion, and it carried (8-0).

2/3. DED2002-17 - Dedication of Street Right-of-Way, from Craig Stuart Homes, for property located on the east side of Burns Avenue, between 18th and 19th Streets North.

OWNER/APPLICANT: Craig Stuart, Craig Stuart Homes, 2708 N. Lake Ridge Street, Wichita, KS 67205

AGENT: Baughman Company, P.A., 315 Ellis, Wichita, KS 67211

<u>LEGAL DESCRIPTION:</u> The west 5 feet of the following described tract: Beginning at the northwest corner of Lot 18, Burns

Avenue, Fords 2nd Addition to the City of Wichita, Sedgwick County, Kansas; thence south 50 feet;

thence east 150 feet; thence north 50 feet; thence west 150 feet to the place of beginning.

PURPOSE OF DEDICATION: This Dedication is a requirement of Lot Split No. SUB 2002-36, and is being dedicated for 5

feet of right-of-way along Burns Avenue.

Planning Staff recommends that the Dedication be accepted.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MARNELL moved, GAROFALO seconded the motion, and it carried (8-0).

COMMISSIONERS: BISHOP, COULTER and JOHNSON in at 1:35 p.m.

3/1. <u>VAC2002-00014</u> – Request to vacate a platted 25-foot building setback.

OWNER/APPLICANT: Independent School

AGENT: PEC c/o Don Norton

LEGAL DESCRIPTION: See attached Legal Description

LOCATION: Generally located southeast of the Rock Road – Douglas Avenue intersection, 8317 E

Douglas Avenue.

<u>REASON FOR REQUEST</u>: The applicant proposes to build bleachers.

CURRENT ZONING: Subject property and properties north, west and east are zoned SF-5 Single-Family

Residential. Properties to the south are zoned SF-5 Single-Family Residential and MF-18

Multi-Family Residential.

The applicant proposes to build a section of metal bleachers that will extend partially or entirely into the platted 25-ft setback for a length of 170-ft (see attached Exhibits and Legal Description). The bleachers will not encroach into the abutting 50-ft drainage easement that runs parallel to the south side of the setback. Currently the drainage easement is paved and serves as a private drive and parking.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
 - 1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time May 16, 2002, which was at least 20 days prior to this public hearing.
 - 2. That private rights will not be injured or endangered by the vacation of the above-described portion of the platted setback, and the public will not suffer loss or inconvenience thereby.
 - 3. In justice to the petitioner, the prayer of the petition ought to be approved.
- B. Therefore, the vacation of the portion of the platted setback described in the petition should be approved subject to the following conditions:
 - (1) Vacate only that portion of the platted 25-ft setback as described in the submitted legal description and shown on the submitted site plan.
 - (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
 - (3) All improvements shall be according to City Standards.

HENTZEN MAPC Commissioners David Wells and Bill Johnson requested to abstain from this item.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MARNELL moved, WARREN seconded the motion, and it carried (9-0-2) WELLS and JOHNSON abstaining

3/2. VAC2002-00016 - Request to vacate portions of a platted 25-foot front yard setback and a 15-foot side yard setback.

OWNER/APPLICANT: Robin Black

LEGAL DESCRIPTION: Beginning at the southeast side of the west part Lot 28, Block 3, Park Meadows Estate

Addition and going north 26.41-foott along the platted street side 15-ft building setback line (running parallel and adjacent to the west property line of Lot 28), then east 6.54-ft and then north 12.24-ft to the point of intersection at the platted street side 15-ft setback.

Beginning 0.8-feet on the south side of the platted 25-foot front building setback line (running parallel and adjacent to the north property line of the west half Lot 28 Block 3, Park Meadows Estate Addition) and going west 35.42-foot along the platted 25-foot front

building setback line

LOCATION: Generally located northeast of the Harry Street and Webb Road intersection, 1526 Todd

Place.

REASON FOR REQUEST: The applicant has a slab that encroached 6.54-feet at its deepest point into the 15-foot

platted side setback and he has an existing encroachment of garage 0.8 feet into the 25-

foot platted front s etback.

CURRENT ZONING: Subject property and properties to the north and east are zoned TF-3 Two-Family

Residential. Properties to the west are zoned GO General Office and MF-18 Multi-Family

Residential. Properties to the south are zoned GO General Office.

The applicant has replaced a slab for a covered porch that has encroached 6.54 feet into 15-foot Platted street side setback and he has an existing encroachment of a garage 0.8 feet into the 25

-foot platted front setback. The current TF-3 UZC street side setback is 15-foot and the current UZC front setback is 25-feet.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
 - 1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time May 16, 2002, which was at least 20 days prior to this public hearing.
 - 2. That private rights will not be injured or endangered by the vacation of the above-described portions of the platted 15-foot & 25-foot setbacks, and the public will not suffer loss or inconvenience thereby.
 - 3. In justice to the petitioner, the prayer of the petition ought to be approved.
- B. Therefore, the vacation of the portions of the platted setback described in the petition should be approved subject to the following conditions:
 - (1) Vacate only those portions of the platted 25-foot and 15-foot setbacks as described in the submitted legal description and shown on the submitted site plan.
 - (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
 - (3) All improvements shall be according to City Standards.

MOTION: To approve, subject to staff comments and citing the findings in their report.

WARREN moved, WARNER seconded the motion, and it carried (10-0-1) JOHNSON abstaining.

3/3. <u>VAC2002-00017</u> - Request to vacate a platted side yard setback.

OWNER/APPLICANT: William Johnson

<u>LEGAL DESCRIPTION:</u> The west 10-feet of the platted 50-feet street side setback running parallel and adjacent to

the east property line of Lot 5, Block C, Mid-Continent Industrial Park I Addition.

LOCATION: Generally located northeast of the Maize and MacArthur intersection, 9800 West York.

<u>REASON FOR REQUEST</u>: The applicant proposes to add on to the existing structure.

CURRENT ZONING: Subject property and all adjacent properties are zoned LI Limited Industrial.

The applicant proposes to add to the existing structure. The applicant requests a 20% reduction, 10-feet, of the platted 50-foot setback running parallel to Norman Street.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
 - 1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time May 16, 2002, which was at least 20 days prior to this public hearing.
 - 2. That private rights will not be injured or endangered by the vacation of the above-described portion of the platted 50-setback, and the public will not suffer loss or inconvenience thereby.
 - 3. In justice to the petitioner, the prayer of the petition ought to be approved.
- B. Therefore, the vacation of the portion of the platted 50-setback described in the petition should be approved subject to the following conditions:
 - (1) Vacate only that portion of the platted 50-ft setback as described in the submitted legal description and shown on the submitted site plan.
 - (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
 - (3) All improvements shall be according to City Standards.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MARNELL moved, **WARNER** seconded the motion, and it carried (10-0-1) **JOHNSON** abstains.

3/4. VAC2002-00018 - Request to vacate a sanitary sewer easement.

OWNER/APPLICANT: Brent & Kenny Fields

AGENT: Tim Fairchild

The northwesterly 45-feet, parallel and adjacent to the northerly property line of Lot 5, Block 4, Rainbow Lakes West 3rd Addition. LEGAL DESCRIPTION:

Northeast of 135th Street West and West Sixth Street, 145 Forestview Circle. LOCATION:

REASON FOR REQUEST: The applicant proposes to build a single-family residence.

CURRENT ZONING: Subject property is zoned SF-5 Single Family Residential. Properties to the north, south,

west and east are zoned SF-5 Single-Family Residential.

The applicant proposes to build a single-family residence, with approximately half of the structure encroaching into the 45-foot sewer easement. The 45-foot sewer easement is not shown on the plat, but was dedicated by separate instrument. There is a sanitary sewer line as well as a manhole in the sewer easement. Note that the vacation of the 45-foot sewer easement will not effect the 20foot easement or the 50-foot Cities Service Pipeline Easement that run parallel and adjacent to the west property of the subject property.

- Α. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
 - 1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time May 16, 2002, which was at least 20 days prior to this public hearing.
 - 2. That private rights will not be injured or endangered by the vacation of the above described portion of the platted 45foot sewer easement and the public will not suffer loss or inconvenience thereby.
 - 3. In justice to the petitioner, the prayer of the petition ought to be approved.
- B. Therefore, the vacation of the portion of the platted 45-foot sewer easement described in the petition should be approved subject to the following conditions:
 - (1) Abandon the sewer line and the manhole in the 45-foot sewer easement or guarantee that the sewer line and manhole will be abandoned according to City Standards as reviewed and approved by the City Engineer.
 - (2) Retain both the 20-foot utility easement and the portion of the 50-foot Cities Service Pipeline Easement that run parallel and adjacent to the west property line of Lot 5, Block 4, Rainbow Lakes West 3rd Addition, where they intersect with 45-foot sewer easement.
 - (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
 - (4) All improvements shall be according to City Standards

BILL LONGNECKER, Planning Staff presented staff report. It was noted that the sewer line has been abandoned and that Baughman Company has turned in the information required by City Engineering. Also, condition number 2 seeking to retain both the 20-foot utility easement and that portion of the 50-foot Cities Service Pipeline Easement that run parallel and adjacent to the west property line of Lot 5, Block 4, Rainbow Lakes West 3rd Addition, where they intersect with the 45-foot sewer easement.

JOHNSON The motion was made at the Subdivision meeting that the sewer line had to be abandoned according to City Standards as reviewed and approved by City engineering prior to going to City Council.

WARNER Will the sewer line to the house be covered by an easement?

LONGNECKER No, a private line from the manhole in the 20-foot easement to the applicant's house will be run. This is typical. Again, the City is reviewing the Baughman information on the abandoned sewer line.

HENTZEN Anyone else to speak on item 3-4?

MOTION: To approve, subject to staff comments and citing the findings in their report.

WARREN moved, COULTER seconded the motion, and it carried (11-0).

BARFIELD in at 1:45 p.m.

CON2002-00025 - Girl Scouts of the Golden Plains Council, Inc. (Owner/Applicant) request a Conditional Use to allow a community assembly on property described as:

The Southwest Quarter of Section 5, Township 29 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas. Generally located east of 103rd Street West (Maize Road) ½ mile south of 71st Street South.

BACKGROUND: The applicant is requesting a "Conditional Use" for community assembly on a 160-acre tract to develop a Girl Scout campground. The site is located on the east side of 103rd Street West (Maize Road) one-half mile south of 71st Street South, extending south to 79th Street South. It was the previous site of a Star Lumber employee recreation facility, and was given to the Girl Scouts of the Golden Plains Council by Star Lumber.

The Girl Scouts began camping operations there last summer as a day camp facility under nonconforming use rights flowing from the previous Star Lumber recreation facility. Already the main lodge has been enlarged. Code Enforcement has indicated that the expansions already done have reached the nonconforming expansion rights limits. A "Conditional Use" for community assembly is required to allow the additional facilities improvements planned by the Girl Scouts for the site. They plan to operate the facility primarily as a day camp facility with a maximum of 150 girls plus adults/staff attending per day camp session during the months of May through August.

The site is traversed by Spring Creek, a tributary to the Ninnescah River, and has a mapped floodway (FEMA) generally located in a diagonal path from the northwest corner to the southeast corner of the quarter-section. The existing lake, named Wattles Lake on the USGS topographic map, is being expanded. This will affect the location and extent of the floodway boundaries. The improvements planned near the lake are those typical of camps near a water feature such as a beach, fishing dock, a boathouse and dock with a canoe rack. Nature trails and an ecology worksite are located downstream from the dam. These activities generally would be compatible with flood prone land.

The main lodge, located near the primary entrance to the site, has meeting and limited dining facilities. Campground sites with shelter buildings are spread around the property. The future craft barn, nature/science unit site, and sports pavilion site are located on higher ground that is to the west of the lake. The horse barn is located on the west side also. The archery range is remotely sited on the extreme northeast corner of the property. One fire ring is situated on an island in the lake, and the other designated fire ring is in the ultra-primitive campground site on the southern edge of the property.

The site plan shows a network of roads that are 14 feet wide and includes an emergency vehicle bridge on the northern part of the lake to provide emergency access to both sides of the lake. Smaller paths ten feet in width complete the path and road system. Entrances are primarily on 103rd Street West (Maize Road). The property has a railroad right-of-way and bridge on the extreme southeast corner.

The property is bordered by agricultural uses on the north and east. Approximately 60 suburban lots take access from 103rd Street West on the west. Frontierland, a private recreation facility for Vulcan employees is located to the south.

<u>CASE HISTORY</u>: The property is in process of being platted as Starwoods Addition. This plat was approved by MAPC on May 24, 2001, but has not been forwarded to the Sedgwick County Commission for acceptance.

ADJACENT ZONING AND LAND USE:

NORTH: "RR" Rural Residential Agriculture
SOUTH: "RR" Rural Residential Private recreation
EAST: "RR" Rural Residential Agriculture
WEST: "RR" Rural Residential Suburban lots

<u>PUBLIC SERVICES</u>: Normal municipal water and sewer services are unavailable. The main lodge building is on an alternative sewage treatment facility (unapproved at this point but sized to accommodate 4,000 gallons of domestic effluent per day) and provides the wastewater treatment for sewage from cooking in the lodge and restrooms near the lodge. Since this facility would not be expected to provide sewer service to other areas of the site, additional sewer facilities will be needed.

Stand pipes connected to the lake provide water for fire protection. Access for emergency vehicles is available from the road network, which connects both sides of the lake.

103rd Street West (Maize Road) is a gravel township road. No traffic counts are available. 79th Street South is located on the southern boundary, but is closed to traffic for the one-half mile running eastward from 103rd Street South. 71st Street South is located two-thirds mile to the north of the main entrance to Starwoods. This is a paved county-maintained road. Traffic counts on 71st Street South at 103rd Street West were between 1,550 and 1,750 in 2000.

Starwoods Addition limits access to four entrances on both roads. The site plan has the main entrance to the lodge, another point with a circulation gate approximately 200 feet to the north, a bus entrance approximately 250 feet to the south and a fourth entrance 550 feet farther south. Three entrances are shown on 79th.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Land Use Guide" of the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan identifies the subject tract as "rural". The Comprehensive Plan lacks specific goals/strategies/objectives related to non-profit recreational facilities located in remote locations. The goal most related to the proposed project is Goal IX-Education and Culture that seeks to enhance the opportunities for greater cultural and educational experiences. However, none of the strategies for this goal would apply to this project. Goal VIII-Parks, Open Space and Recreation/Objective A generally recommends providing a diverse set of recreational opportunities, but the strategies are limited to public land uses. Perhaps Goal X-Environmental Quality/Objective B is appropriate to consider. It recommends effective floodplain management to enhance water quality and provide flood protection (X.B.3) and retain existing stands of trees and other native vegetation, as well as water and topographic features, through environmental review as part of the subdivision process (X.B.4).

Public/Institutional Locational Guideline #2 recommends convenient access to arterial streets. This site is two-thirds mile away from a county arterial. Approval of the site would be expected to place pressure on the county to take the township road for maintenance and paving.

RECOMMENDATION:

Based on the information available prior to the public hearing, Staff recommends that the request be <u>APPROVED subject a revised</u> site plan that incorporates the following conditions:

- 1. Use of the property shall be limited to those uses permitted by community assembly and typically associated with a Girl Scout campground, including camping areas (including tent and cabin-type camping areas with shelter buildings), meeting facilities, communal dining facilities, craft activities, water-related activities (small craft boating, swimming and fishing), campfire, archery range, horseback riding, nature study, and other similar and compatible recreation activities and the accessory structures to support these uses. The following uses shall be excluded: group residence, convalescent care facility, correctional facilities, correctional placement residences, group homes, recreation and entertainment, outdoor, and recreational vehicle campground.
- 2. The site plan shall be revised to show dedication of major intersection right-of-way at 103rd Street West and 79th Street South and a contingent dedication of 50 feet of right-of-way on both streets, in conformance to the approved condition of Starwoods Addition.
- 3. The site plan shall be revised to provide a temporary turnaround along 79th Street South, in conformance to the approved condition of Starwoods Addition.
- 4. The site plan shall be revised to denote the creation of the floodway reserves and minimum pad elevation for structures and campsites based on the FEMA Letter of Map Amendment.
- 5. The applicant shall obtain all applicable and required permits for water and sewer service from the County and/or the State of Kansas for all improvements.
- The applicant also shall be responsible for obtaining any special permits from the County and/or State of Kansas for any special events held onsite and for meeting any additional temporary requirements for water, sewer, or emergency services in conjunction with these events.
- The Conditional Use shall be developed in general conformance with a site plan revised to meet these conditions. Any substantial change in the revised site plan shall require an amendment to this Conditional Use.
- 8. Development of the Conditional Use shall be commenced within one year from approval or the Conditional Use shall be null and void.
- 9. Any substantial violation of these conditions shall be reviewed and if determined not to be in compliance with these conditions, shall render this Conditional Use null and void.

This recommendation is based on the following findings:

- 1. The zoning, uses and character of the neighborhood: The surrounding area is zoned "RR" Rural Residential. The area to the north and east is rural in character and used for crop farming to the north, and smaller farms and ranches to the east. The property to the south is occupied by a private employee recreation facility for Vulcan employees. This is similar to the use of the site as a Girl Scout camp facility. The area to the west of 103rd Street West is developing with suburban lots mostly two acres in size.
- 2. The suitability of the subject property for the uses to which it has been restricted: The site previously was the Star Lumber employee recreation facility and was used for company picnics and retreats, and has nonconforming use rights. This is the basis by which the Girl Scout camp was operated last year. Expansions authorized to date have been granted as an expansion of the nonconforming use rights. However, the proposed expansions exceed the nonconforming rights and could not be allowed without Conditional Use approval.
- 3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed site plan development will allow an increased level of usage of the camp facility. This can be expected to generate more traffic and noise for the surrounding properties. However, the camp usage will not be continuous (expected to peak in the summer months). Traffic would be sporadic, corresponding to the beginning and ending of camping/retreat activities on a daily basis during camp season.
- 4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The Comprehensive Plan designates the parcel as "rural". The Comprehensive Plan does not indicate appropriate locations for camp facilities of this type, except being along an arterial road. Historically, these types of facilities have sought locations that are remote from residential populations, endowed with natural amenities such as lakes and forests, but with road accessibility to allow patrons to arrive and depart. The proposed site offers several of these attributes, particularly because of the presence of Wattle Lake along Spring Creek and location of a paved road approximately two-thirds mile to the north (71st Street South.
- 5. <u>Impact of the proposed development on community facilities</u>: The proposed "Conditional Use" for community assembly will increase traffic on 103rd Street West, with peak traffic volumes at the beginning and end of camp and retreat activities, particularly during the summer day camp season. A lower level of traffic and delivery vehicles would be anticipated

whenever the campground is in use. It would be anticipated that this increase would generate pressure for the County to accept the 103rd Street West road for maintenance and to improve it to County paved standards.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MARNELL moved, COULTER seconded the motion, and it carried (12-0).

5. <u>CON2002-00022</u> – John Diazzo/Revival Center Inc. (Applicant/Owner) request a Conditional Use for an accessory apartment on property described as:

Lots 12 and 13, Block D, Community Addition to Wichita, Sedgwick County, Kansas. <u>Generally located northwest of the Arkansas Street & 23rd Street North intersection, 2417 North Woodland).</u>

BACKGROUND: The applicant is requesting a "Conditional Use" to allow an accessory apartment on Lots 12 & 13, Block D, Community Addition, 2417 North Woodland, located northwest of the 23rd Street North & Arkansas Street intersection. The property is zoned "SF-5" Single Family-Residential. The request is being made for conversion of part of an existing garage into a guesthouse that will contain a kitchen, bathroom, living room/common area and sleeping quarters. An accessory apartment is a dwelling unit that may be wholly within or detached from a principal single- family dwelling unit. A dwelling unit includes provisions for sleeping, cooking, eating and sanitation. A Conditional Use permit is required for an accessory apartment.

The existing single-family house is located near the front of the property. The garage is located behind and to the south of the house. Besides the internal remodeling to convert a portion of the garage into an accessory apartment, the applicant proposes to add windows and a door. The current roofline and the vinyl lap siding (similar to what is on the single-family house) will remain as they are. The paved driveway (approximately 77-feet (x) 27-ft) is large enough to accommodate the extra 1-2 cars for an accessory apartment.

The surrounding area is single-family residential in character, with a church abutting the property on the south side.

As per the Unified Zoning Code, the "Conditional Use" requirements for accessory apartments stipulate the following:

- (a) a maximum of one accessory apartment may be allowed on the same lot as a single-family dwelling;
- (b) the appearance of an accessory apartment shall be compatible with the main dwelling and with the character of the neighborhood;
- (c) the accessory apartment shall remain accessory to and under the same ownership as the principal single-family dwelling, including that it shall not be subdivided or sold as a condominium; and
- (d) the water and sewer service provided to the accessory structure shall not be provided as separate service from the main dwelling.

CASE HISTORY: Lots 12 & 13, Block D are part of the Community Addition, which was approved by the WCC November 24,1953.

ADJACENT ZONING AND LAND USE:

NORTH: "SF-5" Single-Family Residential Single-Family Residential

SOUTH: "SF-5" Single-Family Residential Church

EAST: "SF-5" Single-Family Residential Single-Family Residential WEST: "SF-5" Single-Family Residential Single-Family Residential

PUBLIC SERVICES: The property is located on a paved and curbed residential road. Sewer and water are available.

<u>CONFORMANCE TO PLANS/POLICIES</u>: The 2001 Sedgwick County Development Guide Land Use Guide of the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan designates this area as "low density residential". The Planning Staff and the MAPC have supported Accessory Apartments within low-density residential in the past.

<u>RECOMMENDATION</u>: Based upon information available prior to the public hearing, Staff recommends that the request be <u>APPROVED subject to the following conditions</u>:

- 1. The accessory apartment shall be subject to all requirements of Section III-D.6.a of the Unified Zoning Code.
- 2. The applicant shall obtain all applicable permits, including but not limited to: building, health, and zoning.
- 3. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VII hereof, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

- 1. <u>The zoning, uses and character of the neighborhood</u>: The area is residential in character, with the church to the south being the only non-residential development in the immediate area.
- 2. The suitability of the subject property for the uses to which it has been restricted: The site could continue to be used solely for single-family residential use. Accessory apartments are allowed as a "Conditional Use" in "SF-5" provided the MAPC finds that the applicant and the site meet specified reviewed criteria. The applicant and the site appear to meet these criteria.
- 3. <u>Extent to which removal of the restrictions will detrimentally affect nearby property</u>: Any detrimental effect should be minimized by the requirements of the Conditional Use.
- 4. <u>Conformance of the requested change to adopted or recognized Plans/Policies:</u> The 2001 Sedgwick County Development Guide Land Use Guide of the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan designates this area as "low density residential". This plan also recommends that incentives be developed to encourage people to remain in older residential neighborhoods. The ability to apply for the Conditional Use to permit an accessory apartment in single-family districts is one such incentive.
- 5. Impact of the proposed development on community facilities: The applicants' request should have a minimal impact on community facilities.

GAROFALO I have a few questions. Usually there is a reason for this type of request and I am not finding it in the staff report.

LONGNECKER The request is being made for conversion of part of an existing garage into a guesthouse that will contain a kitchen, bathroom, living room/common area and sleeping quarters. The church is owned by the applicant and he would like to have an apartment for when visiting priests come to town so they will have a place to sleep and save on the additional cost of getting a hotel.

GAROFALO This is going to be a permanent accessory apartment? This is a little different request than what we normally have requested.

LONGNECKER Yes, an accessory apartment is a dwelling unit that may be wholly within or detached from a principal single-family dwelling unit. The garage will be converted into a guesthouse.

MOTION: To approve, subject to staff comments and citing the findings in their report.

JOHNSON moved, BLAKE seconded the motion, and it carried (12-0).

ZON2002-00009 (associated with CON2002-00006) — Roger's Enterprises, Inc. %Keith Anderson (Owner/Applicant); Baughman Company, P.A., %Russ Ewy (Agent) request a Zone Change from "B" Multi-Family Residential and "LC" Limited Commercial to "LC" on property described as:

The south 20 feet of Lot 1, Sroade Gardens, Sedgwick County, Kansas. <u>Generally located south of 13th Street North and west of St. Paul.</u>

6b. <u>CON2002-00006 (associated with ZON2002-00009)</u> – Roger's Enterprises, Inc., %Keith Anderson (Owner/Applicant); Baughman Company, P.A., %Russ Ewy (Agent); request a Conditional Use to expand existing Self-Storage Warehouse on property described as:

That part of Lot 1, Sroade Gardens, Sedgwick County, Kansas, described as follows: Beginning at the SE corner of Lot 1, Block A, Keith Addition to Wichita, Sedgwick County, Kansas; thence N 00 degrees 42' 42" W along the east line of Lot 1, Block A, in said Keith Addition, 150.00 feet to a deflection corner in said east line; thence N 90 degrees 00' 00" E parallel with the south line of Lot 1, Block A, in said Keith Addition, as extended easterly, 102.30 feet, more or less, to a point on the east line of Lot 1 in said Sroade Gardens; thence southerly along the east line of Lot 1 in said Sroade Gardens, 150.00 feet, more or less, to the SE corner of Lot 1 in said Sroade Gardens; thence westerly along the south line of Lot 1 in said Sroade Gardens, 102.13 feet, more or less, to the point of beginning. Generally located south of 13th Street North and west of St. Paul.

BACKGROUND: The applicant owns U-Stor Self Storage located at 2935 W. 13^{fl} St. N. and proposes to expand the facility on adjoining property located immediately east of the existing facility. The subject property is zoned "LC" Limited Commercial except for the south 20 feet, which is zoned "B" Multi-Family Residential. The applicant is requesting to rezone the south 20 feet of the subject property to "LC" Limited Commercial. Additionally, Self-Service Storage Warehouse requires a Conditional Use in the "LC" Limited Commercial zoning district; therefore, the applicant is requesting a Conditional Use on the entire subject property.

The character of the surrounding area is that of mixed-uses with commercial, office, and multi-family uses along the 13th Street corridor and single-family residential uses along St. Paul. The properties to the north and west of the subject property are zoned "LC" Limited Commercial and are developed with a self-storage facility, a mortuary, and a doctor's office. The properties to the south and east of the subject property are zoned "SF-5" Single-Family Residential and are developed with single-family residences, most of which are well maintained but a few of which are showing signs of long-term neglect.

The area along 13th Street between St. Paul and Custer transitioned from single-family residential use to office and commercial uses over a 20 year period from the mid-1960s to the mid-1980s. In the last 20 years, the current boundary between residential and non-

residential uses has remained in place, and the subject property and a small commercially-zoned tract on Custer are the only remaining undeveloped non-residential properties in this area. Well planned commercial developments on these properties that provide significant buffers to reinforce the existing boundary between residential and non-residential uses should help stabilize the few troubled residential properties in the area and prevent further encroachment of non-residential uses into the area. To that end, the applicant has proposed a extension of an existing commercial business onto the subject property that provides such buffers.

The applicant submitted the attached elevation drawing of the proposed addition to the self storage facility. The applicant proposes that the exterior of two new storage buildings be of a stucco-like material in a beige color that matches the existing storage buildings. The roof of the proposed storage buildings would be flat with a slight slope for drainage and would be constructed of brown colored metal, which also matches the existing storage buildings. The applicant proposes to use the walls of the storage buildings as the primary screening for the facility, with an eight-foot high wooden fence providing screening in the gaps between storage buildings.

The applicant submitted the attached site plan showing the proposed location of the two new storage buildings in relation to the existing storage facility. The proposed site plan does not conform to three of the Supplementary Use Regulations of the Unified Zoning Code for Self-Storage Service Warehouses. First, the applicant is proposing a 15-foot building setback from St. Paul, rather than the code-required 20-foot building setback. The applicant's justification for this proposal is that the applicant is dedicating an additional five feet of right-of-way for St. Paul as a condition of a Lot Split; therefore, the buildings will be set back 20 feet from the existing property line. Second, the applicant is proposing not to add any parking spaces for the two new storage buildings, rather than the code-required one additional parking space. The applicant's justification for this proposal is that the code provides for reductions of the parking requirement when existing businesses are expanded or remodeled. Third, the applicant is proposing a 51% building coverage, rather than the code-required 45% building coverage. The applicant's justification for this proposal is that the 45% building coverage is a new code requirement put in place since the existing facility was developed, and the existing facility was developed at a 57% building coverage. The City Council may grant the applicant's requested modifications to the Supplementary Use Regulations upon receiving a favorable recommendation from the MAPC.

The Compatibility Setback Standards of the Unified Zoning Code are more strict than the Supplementary Use Regulations for Self-Storage Warehouses and require any non-residential use on the subject property to have a 25-foot setback from the south property line. The applicant proposes a 15-foot setback along the south property line in order to maintain the building setback line of the existing storage facility. The Compatibility Setback Standards can be reduced by a Zoning Adjustment approved by the Planning Director and Zoning Administrator, and planning staff finds that a reduction of the 25-foot compatibility setback is appropriate in this instance.

<u>CASE HISTORY</u>: The subject property is platted as a part of Lot 1, Sroade Gardens Addition, which was a single-family residential subdivision when it was recorded on June 12, 1931. According to aerial photographs, a single-family residence fronting 13th Street was constructed on this lot by 1938. The subject property was rezoned (*Z*-0449) on June 1, 1963 to "LC" Limited Commercial with a 20-foot buffer strip of "B" Multi-Family Residential zoning along the south property line. According to aerial photographs, by 1968 the single-family residence had been razed and the existing doctor's office constructed on the lot. The subject property has remained a vacant rear yard to the doctor's office since that time and has recently been purchased for the proposed expansion of the self-storage facility to the west.

The existing self-storage facility property was rezoned (Z-1450 and Z-1498) to "LC" Limited Commercial on August 9, 1974. A Use Exception (BZA 45-83) for a Residential Storage Warehouse that permits the existing self-storage facility was granted September 27, 1983. The Use Exception prohibits use of the facility for the storage of merchandise, stock, furnishings, or vehicles for commercial businesses and requires that the facility be used only for the storage of excess personal property of individuals or families. These were standard provisions of the zoning code at the time the Use Exception was granted, but are not currently provisions of the zoning code. To treat the expansion area consistently with the existing storage facility, planning staff recommends that the Conditional Use also contain these use restrictions.

ADJACENT ZONING AND LAND USE:

NORTH: "LC" Doctor's office

SOUTH: "SF-5" Single-family residence

EAST: "SF-5" Single-family residences

WEST: "LC" Self-service storage warehouse

PUBLIC SERVICES: Access to the subject property will be through the existing self-storage facility to 13th Street North, which is a four-lane arterial street in this location. The current traffic volume on 13th Street North is approximately 18,000 vehicles per day, and the 2030 Transportation Plan estimates that the traffic volume on 13th Street North will increase to approximately 21,000 vehicles per day. Traffic generated by the property if used for self-storage will be significantly less than potentially could be generated by other uses permitted in the "LC" Limited Commercial zoning district, and these uses would require access to St. Paul where single-family residences are located across the street. The subject property can be served by municipal water and sewer service.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the requests be APPROVED, subject to the following conditions:

 The requirements of Section III.D.6.y. of the Unified Zoning Code (attached) shall be met except as noted in Conditions 2-4.

- 2. Section III.D.6.y.(3) shall be modified to permit a 15-foot building setback along St. Paul for self-service storage warehouse buildings on the subject property.
- 3. Section III.D.6.y.(7) shall be modified to require no off-street parking for self-service storage warehouse use of the subject property as long as eight parking spaces are provided on the adjoining property to the west in the location indicated on the approved site plan.
- 4. Section III.D.6.y.(18) shall be modified to permit a 51% building coverage for self-service storage warehouse buildings on the subject property.
- 5. The operation of the self-service storage warehouse facility shall in no way be deemed to include a transfer and storage business, where the use of vehicles are part of such business, nor shall storage space be rented or leased to any commercial business, individual or corporation for the storage of any merchandise, stock, furnishings, or vehicles of a business of any kind.
- 6. A copy of the Conditional Use Resolution shall be maintained in the office for the convenience of the manager and the tenants. In addition, a log of all tenants shall be maintained on the premises for review by the Office of Central Inspection to assure compliance that no commercial storage is occurring in violation of the Conditional Use.
- 7. All public ingress/egress to the subject property shall be from 13th Street North via the adjoining self-storage property to the west. Access to the St. Paul shall be limited to emergency vehicle access and only if required by the Fire Department. If the Fire Department requires emergency vehicle access to St. Paul, the access drive shall be paved with "Grassy Pavers" or a similar material that will allow emergency vehicle access across the buffer area landscaped with grass.
- 8. The landscaped yards required by Section III-D.6.y.(4) shall contain plant material at a rate of 1 ½ times the requirements of the Landscape Ordinance and shall be installed and maintained in conformance with a landscape plan approved by the Planning Director.
- 9. The site shall be developed in general conformance with the approved site plan and elevation drawing. All improvements shall be completed within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
- 10. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

- 1. The zoning, uses and character of the neighborhood: The character of the surrounding area is that of mixed-uses with commercial, office, and multi-family uses along the 13th Street corridor and single-family residential uses along St. Paul. The properties to the north and west of the subject property are zoned "LC" Limited Commercial, and the properties to the south and east of the subject property are zoned "SF-5" Single-Family Residential. The area along 13th Street between St. Paul and Custer transitioned from single-family residential use to office and commercial uses over a 20 year period from the mid-1960s to the mid-1980s. In the last 20 years, the current boundary between residential and non-residential uses has remained in place. Well planned commercial development on the subject property that provides significant buffers to reinforce the existing boundary between residential and non-residential uses should help stabilize the few troubled residential properties in the area and prevent further encroachment of non-residential uses into the area.
- 2. The suitability of the subject property for the uses to which it has been restricted: The subject property is apparently suitable for the uses permitted in the "LC" Limited Commercial zoning district. However, the subject property does not directly front the arterial street, so the property is less suitable for the retail uses that typically occupy property zoned "LC" Limited Commercial. Such uses also would be more intrusive to the single-family residential uses across St. Paul to the east than the proposed self-storage use that provides significant buffers to reinforce the boundary between residential and non-residential uses.
- 3. Extent to which removal of the restrictions will detrimentally affect nearby property: The recommended conditions of approval should limit noise, lighting, and other activity from adversely impacting surrounding residential areas.
- 4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The proposed use of the subject property adheres to these Commercial Locational Guidelines. The Planning Commission also has an informal policy of supporting zoning changes that foster business expansion at current locations rather than requiring relocation.
- 6. <u>Impact of the proposed development on community facilities</u>: Community facilities should not be adversely impacted.

SCOTT KNEBEL, Planning Staff presented staff report and showed slides. He indicated additional conditions had been added that are pertinent to the larger facility, and asked the Commission to please see conditions 5, 7, and 8, of the staff report. The District Advisory Board did approve this request at their meeting.

BISHOP I would like to note that the District Advisory Board did have concerns about the zone change sign not being visibly posted. Did you know that Scott?

KNEBEL I do know that they expressed concerns at the meeting. At the time I visited the site it was prior to the required time to post the signs, and I did not make another trip to the site.

TERRY SMYTHE, 315 Ellis, Wichita, KS agent, I would like to address the concerns about the zone change signs not being posted. We posted the sign three different times. Now that school is out the signs seem to come down more than normal when children are out of school. Also, the storms and high winds were a problem.

WARNER Is the applicant in agreement to all of the staff recommendations and conditions in the staff report?

SMYTHE Yes.

MEL M. HAMMER, 1305 N. St. Paul, Wichita, KS I am legally blind so you will have to excuse me. I do not completely understand what they are trying to do. Are they going to take some of the empty field behind the chiropractor office?

SMYTHE Yes, the vacant field has been sold to the applicant.

HAMMER Thank you for your time.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MARNELL moved, JOHNSON seconded the motion, and it carried (12-0).

7. <u>CON2002-00024</u> – Verle and Elda Engle (Owner/Applicant) request a Conditional Use to allow a temporary accessory manufactured home dwelling in the County on property described as:

A tract in the Southeast Quarter of Section 4, Township 27 South, Range 4 West of the 6th P.M., Sedgwick County, Kansas, beginning 573.7 feet West of the Southeast corner; thence West 573.7 feet; thence North parallel with the East side of the Southeast Quarter, 759.5 feet; thence East 573.7 feet; thence South 759.5 feet to the point of beginning. Generally located north of East 21st Street North, ¼ mile west of 359th Street West.

BACKGROUND: The applicant is requesting a Conditional Use for a temporary, accessory manufactured home dwelling in the County. The application area is a 10-acre un-platted parcel located north of East 21st Street North, ¼ mile west of 359th Street West. Agricultural fields surround the application area, two neighboring residences lie over 600 feet to the southeast. The property is zoned "RR" Rural Residential and developed with a single-family residence, a barn, a garage, and several sheds. The application area is served by a private well, and a septic tank / leech field sewage system. The application area is screened in all directions with existing tree hedgerows. The applicants propose to place the requested manufactured home north of the existing residence; they propose to place a second septic system on the site, north of the proposed manufactured home (see the attached site plan). Sedgwick County Code Enforcement requires building and sanitary sewage system approval for the proposed use.

The applicants state that their 82 year-old widowed mother is relocating to the application area from lowa. The applicant's stated hardship is assisted living care for their mother, which must be provided by the applicants.

CASE HISTORY: None

ADJACENT ZONING AND LAND USE:

NORTH: "RR" agricultural fields SOUTH: "RR" agricultural fields EAST: "RR" agricultural fields

WEST: "RR" agricultural fields, residences

<u>PUBLIC SERVICES</u>: The property is located along East 21st Street North, a paved two-lane section line road with a half-width right of way of 40 feet. The property has two drive entrances onto 21st Street.

CONFORMANCE TO PLANS/POLICIES: The "Sedgwick County Development Guide" of the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan identifies this area as "rural."

The Wichita-Sedgwick County Unified Zoning Code Section III-D.6.I(3) lists temporary, accessory manufactured home dwellings in the County as a Conditional Use subject to the following conditions and requirements: (a) The location of the manufactured home shall conform to all setback requirements of the district in which located; (b) If the property is not served by a public water supply and municipal type sewer system, the minimum lot size shall be determined by the County Health Department; (c) The unit shall comply with all of the standards of Secs. III-D.6.I(1) and III-D.6.1(2); (d) The applicant shall show due cause that hardship exists and that the hardship cannot reasonably be alleviated without the granting of the Conditional Use; and (e) The Planning Commission shall determine a reasonable time limit for each individual case. The manufactured home shall be removed from the property within 90 days after any change in circumstances used as a basis for the Conditional Use.

The Wichita-Sedgwick County Unified Zoning Code defines a "manufactured home" as one or more mobile components constructed to meet the 42 U.S.C. 5403 HUD Code, providing all accommodations necessary to be a dwelling unit, and connected to all utilities in conformance with a applicable regulations.

RECOMMENDATION: Planning staff finds that the application meets the conditions of the Unified Zoning Code Section III-D.6.I(3). Based upon information available prior to the public hearings, planning staff recommends that the request be <u>APPROVED</u>, <u>subject</u> to the following conditions.

- The applicants shall obtain all applicable permits including, but not limited to: building, health and zoning. Specifically, the requirements of Section III-D.6.I(3) of the Unified Zoning Code shall be met.
- 2. The manufactured home shall meet the post 1976 42 U.S.C. 5403 HUD Code.
- 3. The accessory home shall remain on the site as an accessory dwelling for Opal Widhend only as long as the applicant resides on the site. The applicant shall report to the County Code Enforcement Office on a yearly basis, every June, the status of the occupancy of this manufactured home.
- 4. The manufactured home shall be removed from the property within 90 days after any change in the circumstances used as a basis for the Conditional Use.
- 5. Development and maintenance of the site shall be in conformance with the approved site plan.
- 6. If operations have not begun within one year of approval, or if the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

- The zoning, uses and character of the surrounding area: All property surrounding the application area is used for agricultural purposes, the nearest residential neighbors are over 600 feet to the southeast. Existing hedgerows will screen the proposed manufactured home from neighbors and from 21st Street, protecting the character of the surrounding area.
- 2. <u>The suitability of the subject property for the uses to which it has been restricted</u>: The site is zoned "RR" Rural Residential, which primarily permits large lot residential uses. The site could continue to be used without the Conditional Use.
- 3. Extent to which removal of the restrictions will detrimentally affect nearby property: Provided that the proposed manufacture home meets all applicable codes, and because of the temporary nature of the requested Conditional Use, the proposed accessory use should have no affect on the surrounding properties.
- 4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The requested conditional use is in conformance with the Wichita-Sedgwick County Unified Zoning Code Section III-D.6.I(3) provisions for accessory manufactured home dwellings in the County.
- 5. Impact of the proposed development on community facilities: None identified.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MARNELL moved, COULTER seconded the motion, and it carried (12-0).

8. <u>ZON2002-00025</u> – Johnson Limited Joint Venture c/o Martin E. Johnson (Owner/Applicant); MKEC Engineering Consultants, Inc., "Greg Allison (Agent) request a Zone Change from "LC" Limited Commercial to "OW" Office Warehouse on property described as:

The South 72.7 feet of Lot 1; all of Lot 2, together with vacated 20 foot vacated East- West alley adjoining on the South of and adjacent to said Lot 2; Block A, in Sandlian Addition to Wichita, Sedgwick County, Kansas. Generally located south of 13^{ft} Street North and east of Edwards.

BACKGROUND: The applicant requests a zone change from "LC" Limited Commercial to "OW" Office Warehouse on a 0.38 acre platted tract located south of 13th Street North and east of Edwards. The subject property is the former home of Tiemeyer Meat Company, and the structure that housed that business was recently razed.

The character of the surrounding area is that of a commercial arterial corridor that is developed with a variety of commercial, office, and multi-family uses. The properties adjacent to the subject property in all directions are zoned "LC" Limited Commercial.

The proposed use of the subject property is a 9,180 square foot general warehousing and distribution center for the all of the Johnson's Garden Centers, including the one that has been located across Edwards to the west since 1947. The proposed use is defined by the Unified Zoning Code as Construction Sales and Service, which is first permitted by-right in the "OW" Office Warehouse zoning district if the business is not primarily a retail establishment. Since the proposed use will serve multiple Johnson's Garden Centers and is not located on the same zoning lot as the Johnson's Garden Center to the west, the proposed use cannot be considered accessory to the retail garden center and, therefore, is not permitted in "LC" Limited Commercial zoning.

The "OW" Office Warehouse zoning district is primarily intended to accommodate office and warehousing activities for the building trades and similar businesses with operating characteristics that do not require highly visible locations or the type of vehicular access needed for retail and high-intensity office development. The "OW" Office Warehouse zoning district permits outdoor storage; however, the outdoor storage area is limited to an area equal to the size of the warehouse building and must be screened from any adjacent lot, regardless of its zoning. Since the subject property is along a local street and is adjacent to commercial zoning on sides, none of the provisions of the Landscape Ordinance will apply to the subject property.

<u>CASE HISTORY</u>: The subject property contains a portion of Lot 1 and all of Lot 2, Block A, Sandlian Addition, which was recorded February 9, 1955. The subject property also contains a portion a vacated (V-303) east-west alley, which was vacated October 9, 1964. A variance (BZA 8-75) was granted for the subject property on March 25, 1975 to permit no building setback along the east property line; however, the variance was granted subject to an approved site plan, which is no longer applicable since the former building has been razed.

ADJACENT ZONING AND LAND USE:

NORTH: "LC" Miller's Cleaners SOUTH: "LC" Undeveloped EAST: "LC" McDonald's

WEST: "LC" Johnson's Garden Center

<u>PUBLIC SERVICES</u>: The subject property has frontage to Edwards, a paved local street. The subject property currently has two access drives to Edwards. Edwards intersects with 13th Street North approximately 100 feet north of the subject property. 13th Street North has current traffic volumes of approximately 18,400 vehicles per day, and the 2030 Transportation Plan estimates the volumes will increase to approximately 21,000 vehicles per day. The site is currently served with municipal water and sewer.

<u>CONFORMANCE TO PLANS/POLICIES</u>: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas.

<u>RECOMMENDATION</u>: Based upon information available prior to the public hearings, planning staff recommends that the request be <u>APPROVED</u> subject to the approval of a Lot Split.

This recommendation is based on the following findings:

- 1. The zoning, uses and character of the neighborhood: The character of the surrounding area is that of a commercial arterial corridor that is developed with a variety of commercial, office, and multi-family uses. The properties adjacent to the subject property in all directions are zoned "LC" Limited Commercial. The requested "OW" Office Warehouse zoning is compatible with the zoning, uses, and character of the neighborhood as long as it is limited in scale and used to support the expansion of a long-established business in the area.
- 2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "LC" Limited Commercial and is suitable for many of the uses permitted in that zoning district. However, the subject property does not front the arterial street, so the property is less suitable for the retail uses that typically occupy property zoned "LC" Limited Commercial. This is evidenced by the former occupant of the subject property being a non-retail establishment and the adjacent property to south remaining vacant since it was zoned "LC" Limited Commercial in 1965.
- 3. Extent to which removal of the restrictions will detrimentally affect nearby property: The nearby properties are zoned "LC" Limited Commercial and should not be detrimentally affected by any of the uses permitted in the "OW" Office Warehouse zoning district. Any outdoor storage areas on the subject property would be required to be screened from adjacent properties.
- 4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. While the subject property does not have direct access to an arterial street, it is located approximately 100 feet from the arterial street and will access a local street that has commercial zoning on both sides; therefore, the proposed zone change adheres to these Commercial Locational Guidelines. The Planning Commission also has an informal policy of supporting zoning changes that foster business expansion at current locations rather than requiring relocation.
- 5. <u>Impact of the proposed development on community facilities</u>: Community facilities should not be adversely impacted.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MARNELL moved, COULTER seconded the motion, and it carried (12-0).

9. <u>CON2002-00021</u> – Stephen and Alice Jett (Owner/Applicant) request a Conditional Use for a home occupation (car repair limited) on property described as:

That part of the Southwest Quarter of Section 1, Township 26 South, Range 2 West of the Sixth Principal Meridian, Sedgwick County, Kansas, described as:

Beginning at a point on the West line of said Southwest Quarter with an assumed bearing of North 00 degrees 00'00" East, on said line a distance of 1800.00 feet north from the Southwest corner of said quarter; thence continuing North 00 degrees 00'00" East, on said West line, a distance of 420.00 feet; thence North 86 degrees 44'10" East, parallel with the South line of said Southwest Quarter, a

distance of 569.50 feet; thence South 00 degrees 00'00" West parallel with said West line, a distance of 420.0 feet; thence South 86 degrees 44'10" West, parallel with said South line, a distance of 569.50 feet to the point of beginning, subject to a road right-of-way on the West. Generally located on the east side of north 135th Street West, north of 69th Street North and K-96 (7260 North 135th Street West); within the Colwich area of influence.

BACKGROUND: The applicant is requesting a Conditional Use for a rural home occupation on a 5-acre un-platted tract located on the east side of north 135th Street West, north of 69th Street North and K-96. All property surrounding the application area is zoned "RR" Rural Residential. Surrounding the application area to the north, east, and south is one piece of property under agricultural production. To the west of the application area are two large lot single-family residences, these two residences lie within 500 feet from the location of the proposed Conditional Use building. Additional large lot residences lie to the north and south of the application area.

The application area is zoned "RR" Rural Residential and developed with a single-family residence, two accessory garages of 960 and 720 square feet, a third 1,800 square foot garage is planned to house the proposed Conditional Use. The application area is served by a private well and a septic tank / lateral field sewage system.

The application area is in the Equus Beds Groundwater Management District #2, a water source for the City of Wichita, and therefore raises concerns about hazardous material management for the requested use. The Equus Beds District staff considers this area a "sensitive" groundwater area. Sedgwick County Environmental Code, and both County and Kansas Department of Health and Environment (KDHE) policies prohibit any commercially generated waste, to include effluent from commercial floor drains, from being discharged into lagoons or septic systems. KDHE requires a hazardous material license for any business generating more than 55 pounds of hazardous material per month. Waste oil and/or antifreeze from only a few cars will add up to 55 pounds. Sedgwick County Code Enforcement and Fire Department require building approval for the proposed use.

Planning Staff has received one letter in opposition to the conditional use from a neighbor north of the application area (see attached).

<u>CASE HISTORY</u>: This property, under the current applicant/owners, sought and received a Conditional Use for a dog-breeding kennel (CU 340) which became effective on March 8, 1991. CU 340 was then revoked by the Sedgwick County Department of Code Enforcement on October 14, 1991 as a result of failure to comply with the conditions. The owners filed for reconsideration of the kennel Conditional Use, but were informed on October 18, 1991 that Section 17(C)(8) of the County Zoning Resolution prohibits the refilling of a conditional use permit case within one year following the advertised public hearing date of a similar application. CU 340 for a dog breeding kennel now remains revoked.

The applicant informed Planning Staff that he has been operating a vehicle repair and transmission rebuilding business on the application area for approximately four years.

The applicant requested a building permit, for the proposed Conditional Use, on December 4, 2001. The building permit application states that it is for a 30x30 foot metal storage and hobby building to be used for residential storage with no commercial use. The current Conditional Use application site plan shows this same building as a 30x60 foot building, County Code Enforcement has since inspected the site and found that the building was built to 30x60 feet, and was moved into illegally without a required inspection.

On January 11th, 2002, Sedgwick County Code Enforcement responded to a neighbor's complaint at the application area d "large numbers of vehicles and a transmission shop". The inspector found inoperable cars and an operating transmission shop; the applicant told the inspector that the property was under a Conditional Use for a rural home occupation. County Code Enforcement later informed the applicant that the Conditional Use was for a dog breeding kennel (which Staff now knows to be revoked) and not for any form of vehicle repair. County Code Enforcement informed the applicant that a Conditional Use for vehicle repair would be required in order to continue to operate his business.

The applicant filed a Conditional Use application with MAPD on April 18^h, 2002. The application states that it is for a home based business Conditional Use on less than 20 acres with 1 to 2 non-resident workers in the existing 30x60 foot building.

The application area is within the City of Colwich Zoning Area of Influence. The City of Colwich Planning Commission heard this Conditional Use Request on May 28, 2002. One neighbor spoke in favor of the request, two neighbors spoke in opposition to the request. One of the opposing neighbors produced a Declaration of Restrictions which lists conditions, covenants, and restriction on 70 acres, to include the application area. The restrictions include "No business structure shall be erected or business or profession of any nature conducted on the land herein described...". The Colwich Planning Commission moved to recommend denial of the Conditional Use request, based on the MAPD recommendation. The motion passed by a vote of 4 to 3, with one commissioner abstaining because of his late arrival.

ADJACENT ZONING AND LAND USE:

NORTH: "RR" agricultural fields SOUTH: "RR" agricultural fields EAST: "RR" agricultural fields

WEST: "RR" agricultural fields, single family residences

<u>PUBLIC SERVICES</u>: The property is located along north 135th Street West, a two-lane, section line, gravel road with a 50 foot half-width right of way adjacent to the application area. No traffic count is available for this section of 135th which dead ends approximately 800 feet north of the application area. The property has one drive entrance onto 135th.

CONFORMANCE TO PLANS/POLICIES: The "Sedgwick County Development Guide", amended in January 2002, of the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan identifies this area as "rural."

The Wichita-Sedgwick County Unified Zoning Code states that home occupations "...are intended to permit residents to engage in home occupations that are compatible with residential land uses and to ensure that home occupations do not adversely affect the integrity of residential and rural areas."

The Zoning Code permits "Automobile painting, upholstering, rebuilding, renovation, reconditioning, body and fender works, and overhaul conducted entirely within an enclosed structure with no outdoor storage of vehicles, parts, or equipment;" as a rural home occupation "by right" on parcels of 20 acres or greater, and further than 600 feet from dwellings without home occupations. Because the application area is less than 20 acres, and is less than 600 feet from other dwellings without home occupations, a Conditional Use is required for a rural home occupation.

The Zoning Code limits rural home occupation accessory structures to a floor area equal to the floor area of the principle residence, or up to 3,000 square feet, whichever is greater. The application area residence is recorded as 1,292 square feet and has an attached garage. The applicant requests that the Conditional Use take place in the proposed 1,800 square foot building; however, the application area already has an additional 1,680 square feet in two accessory structures. All of the accessory structures combined would exceed the allowable 3,000 square foot limit. To allow a Conditional Use in only the one accessory structure would be difficult to enforce.

RECOMMENDATION: The Comprehensive Plan identifies this area as "rural"; as such, this area does not have the infrastructure or facilities to accommodate intense commercial use. The Zoning Code clearly intends to protect rural areas and residents from incompatible land uses and the adverse effects of commercial activities. If the application area were the required 20 acres, with the required 600-foot distance from the use to other residences, it would be permitted "by right" and would most likely have little to no adverse affects on neighbors, provided the requirements of the Unified Zoning Code were adhered to. However, the nature of this requested Conditional Use would produce noise, odors, and traffic which would adversely affect the nearby residential neighbors on 135th Street. The size of the proposed Conditional Use building, along with the two proposed outside employees, would result in a significant intensity of business. County Code Enforcement has advised Planning Staff that even the minimum requirements of the Zoning Code, such as limiting the Conditional Use to 3,000 square feet, or prohibiting any outdoor storage, would be difficult to enforce. Neighbors have already expressed opposition to the proposed Conditional Use; they desire a rural residential area without the incompatible business of vehicle repair.

Therefore, it is recommended that this Conditional Use request be DENIED. But, if in the opinion of the MAPC this Conditional Use request is appropriate for this location, the planning staff recommends approval only if the site plan is revised, and under the following conditions, listed 1-9. The site plan should be revised to eliminate the 9,506 square foot parking area; and add landscape screening of evergreen trees, spaced no more than every 30 feet, along the north and south property lines of the application area.

Planning staff feels that several significant conditions should be used to protect the Equus Bed Groundwater Management District #2 from hazardous materials. Equus Bed Groundwater Management District #2 staff concurs with planning staff, and recommends that the applicant be required to obtain a hazardous material license from KDHE.

- 1. The rural home occupation shall be for the uses permitted under "vehicle repair, limited", as defined by the Wichita-Sedgwick County Unified Zoning Code, only.
- 2. The rural home occupation and all associated storage shall take place in the designated 30x60 foot garage only; no associated storage or activity shall take place in other buildings or outdoors.
- 3. Outdoor storage of vehicles, equipment, parts, waste, waste containers, or any other associated items is prohibited. All vehicles associated with the conditional use shall be stored inside the proposed 30x60 foot building.
- 4. Non-resident additional employees shall be limited to a maximum of two.
- 5. The applicant shall have the proposed building inspected by county code enforcement and the county fire department to ensure that it meets all applicable codes, policies and standards. These inspections shall be completed and approved prior to operation of the Conditional Use.
- 6. The applicant shall develop a hazardous material waste storage and disposal plan to meet all applicable codes, policies and standards. This plan shall include the safe storage of all commercial waste; the prevention of any commercial waste from entering the application area septic tank, lateral field, or soil, to include floor drain waste from the proposed building; and the safe containment of any spilled commercial waste. This plan shall be approved by KDHE prior to operation of the Conditional Use.
- 7. The applicant shall submit the "Regulated Waste Activity Notification" form to the Kansas Department of Health and Environment, and obtain a regulated waste license from the Kansas Department of Health and Environment.
- 8. Development and maintenance of the site shall be in conformance with the approved site plan.
- 9. If operations have not begun within one year of approval, or if the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

- 1. The zoning, uses and character of the surrounding area: All property surrounding the application area is zoned "RR" and used for agricultural or rural residential uses; two residences exist at less than 500 feet to the west of the proposed use building. The proposed Conditional Use of vehicle repair is out of character with the surrounding area.
- The suitability of the subject property for the uses to which it has been restricted: The site is zoned "RR" Rural Residential, which primarily permits large lot residential uses. The site could continue to be used as developed for a residence without the requested Conditional Use.

- 3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed Conditional Use would subject neighbors directly across 135th to commercially generated inoperable vehicles, noise, odors, and traffic. Hazardous waste spillage from the proposed Conditional Use would put neighbors' wells, as well as the rest of the Equus Beds groundwater, at risk.
- 4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The requested Conditional Use is not in conformance with the Comprehensive Plan; this area is designated as "rural", and is therefore not appropriate for the requested intense commercial use. This request is not in conformance with the Wichita-Sedgwick County Unified Zoning Code in that the proposed use would subject nearby residences to incompatible land uses and the adverse effects of commercial activities. The Zoning Code minimum standards for rural home occupations would be difficult to enforce on this property.
- 5. <u>Impact of the proposed development on community facilities</u>: The requested use would impact the dead-end, un-paved North 135th Street West with commercial traffic. It could also potentially impact the Equus Beds Groundwater, and neighboring wells, with commercial hazardous waste.

JESS MCNEELY, Planning Staff, presented staff report and showed slides and aerials. Planning staff is recommending that the Conditional Use to allow a rural home occupation be denied. But, if it is the intention of the Planning Commission to approve the request, please review the conditions in the staff report.

The Planning Department has received opposition from adjacent property owners that are here today to give testimony. On Friday, May 31, 2002, at 2.45 P.M. the Planning Department received a facsimile transmission from the office of Robert Kaplan requesting a deferral based on the building code violations issued by County Code Enforcement. Planning staff did not feel that the issue of building code violations was substantial enough to grant the deferral without MAPC giving consent to the deferral. Glen Wiltse from County Code Enforcement is here today if needed to give testimony as well.

The Colwich Planning Commission has heard this request and recommended denial with a vote of 4-3. A citizen present at that meeting provided Declaration of Restriction, which list conditions, covenants, and restrictions on the surrounding 70 acres to include the application area.

WARNER Jess, will you go back to the aerial? That is still farmland. Is there any of this land that is in a subdivision?

MCNEELY No. this is not in a subdivision.

WARNER The rest of the land is owned by one property owner? The rest of the tracks are owned by other owners?

MCNEELY There are three owners of this parcel of land.

HENTZEN If there are no other questions of staff, we will proceed to hear testimony from the applicant.

ROBERT KAPLAN, Kaplan, McMillian & Harris, Attorney for the applicant, 430 N. Market, I want to speak to the deferral of this matter. My assistance was requested was requested by Mr. Jett on Friday, May 31, 2002. I do not want to get into the merits of this request yet. I do not have the Colwich meeting minutes. I have not had enough time to communicate with the neighbor's yet to see what there concerns are. I would like to review the site. My staff is working on my presentation right now. I would like to see a deferral of this request for at least 30 days, and give Mr. Jett an opportunity for a fair and complete hearing.

HENTZEN When we advertise this case will be heard, the adjacent property owners, applicant, etc, are notified that this case will be heard. They make arrangements take off work and time in their schedules to come to the hearings. I think we ought to hear the people that are here today. I can tell you the enforcement of the Code is because the conditions are not being met. I personally think we ought to hear the neighbors that are here and then grant the deferral, because if the conditions are not being met, if needs to be thoroughly looked at.

BARFIELD Mr. Hentzen, are you saying to hear from the neighbors first and then grant the deferral or consider the deferral?

HENTZEN I would like to hear from the neighbors.

MIKE AND TERIESA TAUBER, 13420 W. 69th N., Colwich, KS, We are opposed to this Conditional Use request for the reasons provided in a letter that is in your packets. I will briefly go over the reasons for our opposition.

- 1. Twelve years ago as a condition to buy 20 acres of the 70 acres owned by the Winigers, they (the Winigers) agreed to our request that some restrictions be applied to the whole 70 acres. One of the restrictions was that no commercial business buildings could be built. The present landowners, which are applying for the zoning change, are part of the 70 acres mentioned above. I'm sure that the Winigers or their lawyer would have informed any people which were looking to buy some or all of the remaining acreage of the restrictions. I believe the current owners should have had to sign off on the restrictions when they purchased their plot.
- 2. The transmission repair has been running on this site for at least 1 or 2 years with a new building just being built within the last 6 months. Why try to get the zoning changed after the fact?
- 3. Until just recently most days there were typically 5 to 15 cars a waiting repair, just setting around on the 5-acre property.
- 4. What is being done with all the waste fluids? What about the replaced parts? Where do they go?

5. As I understand it, previously the business was in Hutchinson. Was it closed and moved here, why? Were there violations of any kind that caused the move?

HENTZEN Your comments will be entered in the record.

WARNER When you purchased the land, was the seller Mr. Jett? Were the covenants in force when Mr. Jett purchased his property?

TERIESA TAUBER We were told that Mr. Jett was aware and told of those conditions.

HENTZEN Was this documented and recorded?

TAUBER I don't know. Maybe Mr. Jett can answer that.

WARNER There is a five acre tract north of you?

TAUBER (Shows the property they own on the map). Because his property was in the floodplain he had to move from there, and moved up here out of the floodplain.

WARNER Jess, I would like to know, are you sure the tract starts at 69th Street? Where does the 70 acres start?

MIKE TAUBER Shows on the aerial where his tract is.

WARNER Are there just three owners in that 70 acres?

MIKE TAUBER Yes, Koch Engineering, Mr. Jett and us.

HENTZEN No other speakers? Then the hearing is closed.

KROUT We should ask the applicant if he has any rebuttal to this testimony.

KAPLAN What are we doing here? Normally we take the issue up of the deferral, and I have a presentation in process that I can't present today. I would like to defer at least two weeks.

HENTZEN I am going to say that when we put out notices and suggest to the people that live nearby that they should come, that we should hear them. Their comments are on the record now.

KAPLAN I agree, but I still request a deferral. I think you need all of the facts.

WARNER We all have gotten the staff report documentation and I think it is reasonable to do the deferral.

MOTION: Defer for 30 days.

WARREN moved, ANDERSON seconded the motion.

DISCUSSION ON THE MOTION

BARFIELD I wanted to ask a question before we got into this. Mr. McNeely responded during his presentation that staff recommends denial. Why did you not give the applicant a deferral?

MCNEELY The applicant is requesting deferral because of building code violations and our opinion is that the violations are going to have to be fixed anyway and they are irrelevant to this application. The applicant has been to Colwich, and the neighbor's have had time to come today. Colwich voted 4-3 to recommend denial.

JOHNSON First of all I don't agree that a Conditional Use is on an existing building, and I would like to hear from the County as far as when they did the inspection; as far as why the permit was issued.

KROUT Jess is correct that staff did not think a sufficient reason for granting the deferral to the applicant was because of the building code violations. I did not think that was justification enough. But you do have the applicant's attorney here today saying that there is inaccurate information in the staff report, and his presentation is not ready. You might as well let them have their deferral, because if not, it is likely that the case will be returned to you later.

JOHNSON Does this go back to the Colwich Planning Commission?

KROUT No, it does not have to go back, unless you request it to go back there.

BARFIELD I think we have wasted time here today.

SUBSTITUTE MOTION: To deny the Conditional Use request and not grant a thirty day deferral because the applicant has made it clear that he is not willing to comply with the Code.

BISHOP moved, BLAKE seconded the motion; and it failed (2-10) BISHOP and BLAKE in favor.

WARREN This case has a lot of problems, but we should give the applicant more time to present the case.

	MOTION: To call the question. BARFIELD moved, WELLS seconded the motion; and it failed (2-10). BISHOP and BLAKE in favor ORIGINAL MOTION: Defer CON2002-00021 for thirty days until July 11, 2002.			
	WARREN moved, A	NDERSON secon	nded the motion, and it carried	(10-2) BLAKE and BISHOP opposed.
The Metropolitan Area Planning Department informally adjourned at 2:30 p.m.				
0				
State of Kansas Sedgwick County) ss			
I, Marvin S. Krout, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on, is a true and correct copy of the minutes officially approved by such Commission.				
Given under my hand and official seal this day of, 2002.				
		Marvin S. Krout,	Socratory	
			k County Metropolitan	
		Area Planning C	,	

(SEAL)